

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 13-56279

RECHELA PATRICE HALL,

Chapter 13

Debtor.

Judge Thomas J. Tucker

RICHARD B. HALL, and
PEGGY A. HALL,

Plaintiffs,

v.

Adv. No. 13-5372

RECHELA PATRICE HALL,

Defendant.

**OPINION AND ORDER DENYING PLAINTIFFS' REQUEST
FOR ORDER TO SEIZE PROPERTY**

On May 27, 2014, the Court entered a \$30,000.00 consent judgment against Defendant Rechela Hall, and in favor of the Plaintiffs (Docket # 59, the "Consent Judgment"). Recently, Plaintiffs submitted to the Clerk a document entitled "Request [For] Order to Seize Property," which, in relevant part, requests that this Court enter an order requiring "any sheriff, deputy sheriff, or authorized court officer" to "[s]eize and sell, according to law, any of the personal property (as determined by the officer) of [the Defendant] . . . that is not exempt from seizure, as will be sufficient to satisfy" the debt arising out of the Consent Judgment, and to take certain other actions. (A copy of the request is attached to this Opinion and Order, for reference purposes.)

The Court must deny Plaintiffs' request, because this Court does not have authority to

order a state sheriff or other state court officer to collect a judgment of this Court. *See Reid v. McNeil (In re McNeil)*, 569 B.R. 274, 275 (Bankr. E.D. Mich. 2017); *see also Hawk v. Valdivia (In re Valdivia)*, 520 B.R. 95, 97 (Bankr. E.D. Mich. 2014), *aff'd*, No. 14-14429, 2015 WL 1015127 (E.D. Mich. Mar. 3, 2015) (“This Court has no authority to direct a state officer to serve and execute on a writ of execution. Only an appropriate state court would have such authority.”).

In *McNeil*, this Court stated the following, relying on its ruling in *Valdavia*:

In *Hawk v. Valdivia (In re Valdivia)*, 520 B.R. 95, 97 (Bankr. E.D. Mich. 2014) (footnote omitted), [*a*]*ff'd*, No. 14-14429, 2015 WL 1015127 (E.D. Mich. Mar. 3, 2015), this Court stated:

[T]he Court concludes that only the United States Marshals Service may serve and execute on a writ of execution issued by this Court. No state court officer may do so. *See Branch Banking & Trust v. Ramsey*, 559 Fed.Appx. 919, 924 (11th Cir.2014) (interpreting 28 U.S.C. § 566(c) to mean that “only a U.S. marshal may execute the federal writ of execution by levying on and selling [a judgment debtor defendant's] property”). This Court has no authority to direct a state officer to serve and execute on a writ of execution. Only an appropriate state court would have such authority.

The Court explained further that:

if [the p]laintiff's counsel wants to use a state court officer to execute on a writ of execution, he can only accomplish that by domesticating this Court's September 3, 2014 default judgment in an appropriate Michigan court, and then have that Michigan court issue its own writ of execution, which a state court officer can then serve. Plaintiff can file an authenticated copy of this Court's judgment in the office of the clerk of a circuit, district, or municipal court in the state of Michigan under the “Uniform Enforcement of Foreign

Judgments Act.” Mich. Comp. Laws Ann. §§ 691.1171–691.1179. That Michigan law provides, in relevant part:

Sec. 3. A copy of a **foreign judgment** authenticated in accordance with an act of congress or the laws of this state may be filed in the office of the clerk of the circuit court, the district court, or a municipal court of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the circuit court, the district court, or a municipal court of this state. A judgment filed under this act has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the circuit court, the district court, or a municipal court of this state and may be enforced or satisfied in like manner.

Mich. Comp. Laws Ann. § 691.1173 (bold emphasis added). As used in this statute, “foreign judgment” includes a judgment of the United States Bankruptcy Court—it “means any judgment, decree, or order of a court of the United States or of any other court that is entitled to full faith and credit in this state.” Mich. Comp. Laws Ann. § 691.1172.

Valdivia, 520 B.R. at 97–98.

McNeil, 569 B.R. at 276 (bold in original).

Thus, Plaintiffs may domesticate their Consent Judgment in an appropriate state court, and pursue collection of the Consent Judgment in that court. Or alternatively, Plaintiffs may file a request for this Court to issue a writ of execution directed to the United States Marshal.

Accordingly,

IT IS ORDERED that the Plaintiffs' Request [for] Order to Seize Property" is denied, without prejudice to Plaintiffs' right to file a request for a writ of execution directed to (and only to) the United States Marshal.

Signed on August 17, 2020



/s/ **Thomas J. Tucker**

Thomas J. Tucker
United States Bankruptcy Judge

STATE OF MICHIGAN JUDICIAL DISTRICT US Bankruptcy Court	REQUEST AND ORDER TO SEIZE PROPERTY	CASE NO. 13-05372-tjt
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Court address 226 W. Second Street, Flint, MI 48502 Court telephone no. 20E03767

Plaintiff name(s), address(es), and telephone no(s). Richard B. Hall, and Peggy A. Hall c/o Goodman Frost, PLLC 20300 W 12 Mile Rd. Ste 101 Southfield, MI 48076	v	Defendant name(s), address(es), and telephone no(s). Rechela Hall 20035 Cheyenne Street Detroit, MI 48235-1156
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REQUEST AND VERIFICATION

1. Plaintiff received judgment against defendant for \$ 30,000.00 on May 27, 2014.
2. The total amount of judgment interest accrued to date is \$ 5,796.91. The total amount of postjudgment costs accrued to date is \$ 0.00. The total amount of postjudgment payments made and credits to date is \$ 0.00. The amount of the unsatisfied judgment now due (including interest and costs) is • \$ 35,796.91.
- *Statutory interest, officer/sheriff fees, and expenses may be charged in addition to the unpaid judgment balance, according to law.
3. The plaintiff asks the court to issue an order to seize the property of the following defendant(s):

Rachela Hall 03-06-1967
Name Date of birth (if available)

Name Date of birth (if available)

8-11-2020 Date Plaintiff/Attorney signature P40616 Bar no.

20300 W 12 Mile Road Suite 101 Southfield MI 48076 2487500500
Address City State Zip Telephone no.

ORDER

TO ANY SHERIFF, DEPUTY SHERIFF, OR AUTHORIZED COURT OFFICER - YOU ARE ORDERED TO:

1. Seize and sell, according to law, any of the personal property (as determined by the officer) of defendant(s) named above in the Request and Verification that is not exempt from seizure, as will be sufficient to satisfy the plaintiff's demand, costs, and any statutory fees and expenses. Personal property may include, but is not limited to motor vehicles or money, wherever located.
2. If sufficient personal property of defendant(s) cannot be found within your jurisdiction, seize and sell any of the real property of defendant(s) not exempt from seizure, as will be sufficient to satisfy plaintiff's demand, costs, and any statutory fees and expenses.
3. Collect from the sale of the property enough money to pay all of your statutory fees and statutory expenses.
4. Deposit proceeds of sale with the ☐ court ☒ plaintiff after deducting statutory fees and statutory expenses.
- ☐ 5. Claim and Delivery Only: Seize the property described in the attached judgment for claim and delivery and deliver to the plaintiff(s); or if the property is not found in the possession of the defendant(s), levy the value of it.
6. You must endorse the month, day, year, and hour that you receive this order, and that time is the effective date of this order. You must return this order not less than 20 days, nor more than 90 days, from the effective date. If you have begun to serve this order on or before the return date, you may complete the service and return after the return date.
7. You may not continue collecting on this order after the return date except as indicated in item 6.
8. Order to be served by Deputy Sheriff Scott Hope
Authorized court officer/Deputy sheriff

Date Judge Bar no.

ENDORSEMENT: I certify that I received this order on _____ at _____
Date Time

Authorized court officer/Deputy sheriff

TO THE DEFENDANT: The person taking property must provide you with a receipt of all money paid by you and an inventory of the property taken.